

**CITY OF SHOREVIEW  
MINUTES  
REGULAR CITY COUNCIL MEETING  
February 4, 2013**

**CALL TO ORDER**

Mayor Martin called the regular meeting of the Shoreview City Council to order at 7:00 p.m. on February 4, 2013.

**PLEDGE OF ALLEGIANCE**

The meeting opened with the Pledge of Allegiance.

**ROLL CALL**

The following members were present: Mayor Martin; Councilmembers Johnson, Quigley, Wickstrom and Withhart.

**APPROVAL OF AGENDA**

MOTION: by Councilmember Wickstrom, seconded by Councilmember Johnson to approve the February 4, 2013 agenda as submitted.

VOTE:                      Ayes - 4                      Nays - 0

**PROCLAMATIONS AND RECOGNITIONS**

There were none.

**CITIZEN COMMENTS**

**Mr. Todd Sharkey** distributed a packet of documents to the Council and identified the following documents: Exhibits A, Certificate of Deed; Exhibit B, Letter to Dr. Charles E. Bregel, dated July 24, 1978; Exhibit B1, section map of the property at 1000 Oakridge Avenue; Exhibit C1, Notice of Public Hearing for a subdivision of 1013 Oak Ridge Avenue; Exhibit F1, City Resolution No. 93-19; Exhibit L1, Declaration of Easement dedicated to the public; Exhibit N1, copy of a legal document that states that neither easements nor dedicated public rights-of-way can be created within the Registered Land Survey (RLS) (the property at Oak Ridge is an RLS); Exhibit S1, a diagram of a turn-around, none of which is part of 1000 Oak Ridge Avenue; Exhibit T1, turn-around as agreed to by the City, not a cul-de-sac--the turn-around was granted to the public; Exhibit U1 City of Shoreview Municipal Code setback requirements for accessory structures. At this point, Mr. Sharkey had used his three minutes allowed for Citizen Comments.

## **COUNCIL COMMENTS**

### **Mayor Martin:**

TCF on Lexington and Red Fox Road has opened. The Grand Opening will be Tuesday, February 5, 2013.

The *Slice of Shoreview* Committee is holding its annual fundraiser, *Taste of the Slice* on February 21, 2013, beginning at 5:30 p.m. at the Shoreview Community Center. Area restaurants are donating food. More information is available on the City's website. Tickets can be purchased at the door, but there is a discount if tickets are purchased early.

### **Councilmember Wickstrom:**

*Beyond the Yellow Ribbon* held its *Build A Burger* event Monday night in White Bear Lake at the VFW. This event raises money to help returning military personnel and their families. The *Yellow Ribbon Steering Committee* will meet at Roseville City Hall on February 21, 2013, at 7:00 p.m. Anyone interested is welcome to attend.

The Environmental Quality Committee (EQC) has begun its annual speaker series. The next program is on February 20, 2013, at 7:00 p.m. in the Council Chambers. The topic will be "How to Reduce Energy Consumption in the Home." The program will be taped and replayed over Cable TV.

The Legos State Tournament was held last Saturday. The purpose of the organization is to organize in teams, find a problem and solve it. Over 500 teams are in the program; 70 went to the state tournament, five of which were from Shoreview and won a number of awards, including first place in three categories: innovative solutions, technical design category, and team spirit. One team took second place in research. The teams are: Ponytail Posse, Height Differential, Imaginative Orange Pi, Gamemakers, Electric Solution Monsters.

### **Councilmember Johnson:**

Thursday, February 7, 2013, Northwest Youth and Family Services will hold its 2013 Service to Youth Awards. The event is from 5:30 to 7:30 p.m. for dinner. Councilmember Quigley will be a recipient of an award that evening. Full information is available at [nyfs.org](http://nyfs.org).

### **Councilmember Quigley:**

Noted that former Councilmember Blake Huffman, now Ramsey County Commissioner has decorated his new office with Shoreview Gallery 96 art work.

## **CONSENT AGENDA**

Item Nos. 2 and 10 were pulled for separate consideration.

**No. 10: Acceptance of Gifts for Human Rights Commission Poster Contest**

Councilmember Withhart noted and recognized the following businesses and individuals who donate prizes for the Human Rights Poster Contest.

Rainbow Foods  
 Bruegger's Bagels  
 Nancy Hite  
 Lee's Champion Tae Kwon Do  
 C&E Hardware  
 Anna's Hallmark  
 Shoreview Community Center  
 Mansetti's  
 Red Ginger Asian Bistro  
 Julie Williams

**No. 2: January 2013 City Council Minutes**

Councilmember Wickstrom noted a correction on page 1. Reference to the team, Imaginative Orange Pie should read Pi, not Pie.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom to approve the Consent Agenda for February 4, 2013, and all relevant resolutions for item Nos. 1 through 13:

1. January 14, 2013 City Council Workshop Meeting Minutes, as submitted
2. January 22, 2013 City Council Meeting Minutes, as corrected
3. Receipt of Committee/Commission Minutes:
  - Economic Development Authority, January 14, 2013
  - Public Safety Committee, January 17, 2013
  - Environmental Quality Committee, January 28, 2013
4. Verified Claims in the Amount of \$705,858.78
5. Purchases
6. License Applications
7. Adoption of Administrative Penalties for Tobacco Violation - Exxon of Shoreview and Heather Dahlberg
8. Developer Escrow Reduction
9. Authorization to Participate in the Metropolitan Council's Inflow/Infiltration Grant Program
10. Acceptance of Gifts for Human Rights Commission Poster Contest
11. Authorize Replacement of Units 206 and 207
12. Revise the City's Tax Compliance Policy Relating to Tax-Exempt Bonds and "Build America Bonds"
13. Approval of 2013 Insurance Coverage

**VOTE:** Ayes - 5 Nays - 0

**PUBLIC HEARING****AUTHORIZATION TO PREPARE PLANS AND SPECIFICATIONS - GASTON, GROVE, ST. ALBANS WATER MAIN EXTENSION, CP 13-03****Presentation by City Engineer Tom Wesolowski**

The City Council received the feasibility report at the January 7, 2013 City Council meeting and called for a public hearing on this project.

The majority of the neighborhood, 14 residents, is not served by a water main. The project includes rehabilitation of streets. It is City policy that all underground utilities in the service area be installed prior to street improvements. An informational meeting was held with residents on November 8, 2012. Currently, there is a six-inch water main stubbed to Gaston and Grove Avenues. The roadway is 32 feet wide with surmountable curb and gutter. There is a storm water collection system. The proposed improvements include a water main installed by directional drilling and rehabilitation of the streets. The sanitary sewer is clay pipe and will be relined at a later time. The storm sewer is functioning properly, and no improvements are planned.

The estimated total cost for the project is \$98,000 to be funded with special assessments and bonding. The estimated water main assessment is \$7,829 per unit. The assessment includes the source and supply charge for the water system.

**Project Schedule:**

February 4, 2013	Public Improvement Hearing
February 19, 2013	Approval of Plans and Specifications
March 14, 2013	Bid Opening
March 18, 2013`	Council Award Contract
May 2013	Construction Start
June 2013	Construction Complete
June 2014	Assessment Hearing

City Attorney Filla stated that he has reviewed the affidavits and the required notices for the public hearing are in order at this time.

Mayor Martin opened the public hearing at 7:25 p.m.

**Mr. Robert Wurscher**, 655 Gaston Avenue, stated that wells in the neighborhood are 126 feet deep, and residents enjoy good water. Everyone has put in a new pump or storage tank. No one wants the water main to hook up to City water. It feels like residents will be forced to do this to fall in line and make this neighborhood like everyone else. Road repairs are understood, but no one wants to spend over \$8,000 for a water main. Homes cannot be sold with such a high assessment. It is a burden. He requested that the Council consider that 14 families are satisfied with the water as it is now.

Mayor Martin stated that if the street work is postponed, there will be only more serious problems as it deteriorates. Mr. Maloney stated that the City plans street rehabilitation before they deteriorate into the category of needing full reconstruction, which is much more costly. If the work is not done now, within six or seven years it may deteriorate to the point that a full depth reclamation method cannot be used but would have to be fully reconstructed, and the cost would be substantially higher.

**Mr. Wurscher** responded that if installation of the water main is through boring, there will be little disturbance of the road. Mr. Wesolowski explained that directional boring as opposed to an open cut means that holes have to be dug every 100 feet in order to pull the pipe from one point to the next.

**Mr. Matt Segler**, 665 Grove Avenue, asked if residents would have to hook up to City water if the water main is put in. Mr. Wesolowski stated that there is no policy requiring water connection. Mr. Schwerm stated that there is a water availability charge on utility bills to help fund maintenance of the entire system and for fire protection.

Public Works Director Mark Maloney explained that the reason why the City is scheduling work in this neighborhood is because the road pavement needs rehabilitation. The City street renewal policy was adopted in 1975, and amended in 1988. The rationale for the policy is to insure that all of the utility work should be done at the same time to make sure money is not spent and the investment lost when later a decision is made to install water main and service lines.

City Manager Schwerm added that when money is put into rebuilding a street, the street is expected to last 20 to 30 years depending on soils. It is more difficult to again invest money in a water main when the wells go bad and there is nothing wrong with the street. That is why the policy was put in place.

Mr. Maloney noted that the planned street rehab work will not be assessed. The value of the street work is approximately \$500,000 per mile.

**MOTION:** by Councilmember Quigley, seconded by Councilmember Johnson to close the public hearing at 7:30 p.m.

**VOTE:** Ayes - 5 Nays - 0

Councilmember Wickstrom stated that while she is sympathetic with residents, the Council must look out for the public good. The wells in the neighborhood are in the range of 20 to 38 years old. If the water main is not put in now, it will cost more later in addition to the road work that will have to be redone, which are general tax dollars.

Councilmember Withhart agreed and stated that the Council has to balance the best interests of everyone. The Public Works Department has evaluated every street in the City to figure out timing for improvements. The schedule used is to prevent potholes and a lot of patching.

Mayor Martin added that once the water main is in the roadway, it will be easy for residents to connect either now or in the future. While she understands residents do not want to incur this cost, it is preferable to connect to City water rather than fixing a well. The water main also improves

public safety by providing fire hydrants to the neighborhood. If the street work is not done this year, it will be another six to eight years before it comes up on the schedule again.

**MOTION:** by Councilmember Quigley, seconded by Councilmember Withhart to adopt Resolution No. 13-14 directing the preparation of plans and specifications and ordering the improvements for the Gaston, Grove, St. Albans Neighborhood Water Main Extension, City Project 13-03.

**ROLL CALL:** Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin  
Nays: None

## **GENERAL BUSINESS**

### **AWARD OF BONDS**

**A. AWARD SALE OF \$4,150,000 GENERAL OBLIGATION BONDS, SERIES 2013A**

**B. AWARD SALE OF \$3,555,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013B**

### **Presentation by Finance Director Jeanne Haapala**

Standard & Poors has reaffirmed the City's AAA bond rating for debt issues for this year. Some of the key reasons for the bond rating given by Standard & Poors include strong financial performance, financial policies, budget, long-term financial planning, access to and participation in a strong metropolitan area, high income levels, maintenance of very strong reserves, conservative policy, moderate debt burden, continued commercial development, impressive business retention program, unemployment rate below national levels, a very diverse total net tax capacity, and strong financial management. Financial practices are strong and well imbedded for sustainability.

Two debt issues are being considered. One is for new money in the amount of \$4,150,000 to finance the street rehabilitation program and utility portions of other City projects. The low bid was from BOSC at 1.56%. The second debt issue, in the amount of \$3,415,000, is to refund four outstanding debt obligations issued in 2004 and 2006. The low bid is 1.06%.

**Ms. Terry Heaton**, Springsted, stated that the estimated savings for refinancing the four outstanding debts is nearly \$280,000. She further emphasized that Shoreview's financial planning efforts are the reason for the AAA bond rating and this was achieved at a time of economic downturn.

Councilmember Wickstrom stated that Shoreview has the tools in place to maintain financial flexibility. Some communities are scaling back and eliminating flexibility.

Mayor Martin added that some cities are using their reserves to decrease the tax levy.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Johnson to adopt proposed resolution #13-17 authorizing issuance, awarding sale, prescribing the form and details and providing for the payment of \$4,150,000 general obligation bonds, Series 2013A.

ROLL CALL: Ayes: Quigley, Wickstrom, Withhart, Johnson, Martin  
Nays: None

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to adopt proposed resolution #13-18 authorizing issuance, awarding sale, prescribing the form and details and providing for the payment of \$3,415,000 general obligation refunding bonds, Series 2013B.

ROLL CALL: Ayes: Wickstrom, Withhart, Johnson, Quigley, Martin  
Nays: None

**REZONING/PRELIMINARY PLAT/PLANNED UNIT DEVELOPMENT-DEVELOPMENT STAGE, PaR SYSTEMS, INC., 625, 655, 707 COUNTY ROAD E WEST**

**Presentation by City Planner Kathleen Nordine**

In September 2012, a site and building plan was approved for PaR Systems to construct an addition at 625 County Road E West. Approval was granted with the condition that PaR Systems submit a PUD application within one year. The intent of the PUD is to recognize the use of the two parcels of property by a single user. The property at 707 County Road E is 4.82 acres with a developed office/manufacturing building of 71,205 square feet. The property at 625/655 is 5.32 acres and has two buildings with off-street parking and storm water management facilities. The building at 655 is 18,000 square feet for offices; the building at 625 is 45,760 square feet and is used as a manufacturing/warehouse and office building.

The proposal is consistent with the City's Comprehensive Plan. This property is also in a Policy Development Area (PDA No. 17), which is targeted for redevelopment. The rezoning is consistent with adjoining uses. There are no adverse impacts. The PUD defines the relationship between the parcels and site improvements. There is a plat deviation for the buildings at 655 and 625, as the structures are set back 22.2 feet. The requirement is 30 feet.

The Planning Commission approved a requested variance to reduce the parking lot setback adjacent to County Road E from 20 feet to 6.2 feet. Also, the parking lot setback at the side lot line is reduced to 0. The building at 707 has a setback of 37.6 feet, not the required 75 feet.

The site does have a shortage of 98 parking stalls from what the City requires. The applicant has shown proof of parking on site. With the proof of parking, the deficiency is 62 stalls. The applicant states that based on need, it is believed there is adequate parking for employees. The Development Agreement includes language to notify the City should the use on this property change, which would require an amendment to the PUD.

Property owners within 350 feet were notified of the application. No comments were received.

Planning Commission Chair Solomonson stated that the Commission's discussion focused on parking. The added language in the Development Agreement and the fact that there is shared

parking on the site satisfied the Commission. The application is recommended for approval on a 6 to 0 vote.

Mayor Martin stated that PaR is creating a campus. Because the property is owned by one group, the deviations are acceptable.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Johnson to adopt Ordinance #902 and approve the rezoning, preliminary plat and planned unit development stage applications submitted by PaR Systems/Welsh for 625, 655 and 707 County Road E West, subject to the following:

### **Rezoning**

1. This approval rezones the property from BPK, Business Park, to PUD, Planned Unit Development with an underlying zone of BPK, Business Park.
2. Rezoning is not effective until approvals are received for the Final Plat, PUD - Final Stage and development agreements executed.

### **Preliminary Plat**

1. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.
2. The final plat shall include drainage and utility easements along the property lines and storm water ponding areas. Drainage and utility easements along the roadways shall be 10' wide and along the side lot lines these easements shall be 5' wide as required by the Public Works Director.
3. Private agreements shall be secured between the parcels in the subdivision regarding joint driveway, parking, stormwater, utility and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's release of the Final Plat.
4. Executed and recorded copies of the required agreements and association documents shall be submitted to the City prior to the issuance of a building permit.
5. The Final Plat shall be submitted to the City for approval with the Final Stage PUD application.

### **Planned Unit Development – Development Stage**

1. The permitted uses of the buildings on these properties is for manufacturing, warehouse and office uses as depicted on the submitted and approved site plans on file with the City for each parcel. Any change in use or occupancy of the building as determined by the City Planner will require an amendment to the Planned Unit Development.
2. Private agreements shall be secured between the parcels in the subdivision regarding joint driveway, parking, stormwater, utility and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's release of the Final Plat.
3. At the time the proposed addition is constructed on the building at 625 County Road E, the applicant is encouraged to enhance the exterior appearance of the building at 655 County Road E.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the designated business park land use in the Comprehensive Plan.
2. The proposed subdivision complies with the subdivision standards identified in the City's Development Code.
3. The proposed PUD for these properties is beneficial because it will formally recognize the use of these properties by a single user and the shared facilities and infrastructure that exist within this development.

ROLL CALL:           Ayes: Withhart, Johnson, Quigley, Wickstrom, Martin  
                      Nays: None

**SITE AND BUILDING PLAN REVIEW - RAMSEY COUNTY PARKS & RECREATION,  
5959 LEXINGTON AVENUE (RICE CREEK DOG PARK)**

**Presentation by City Planner Kathleen Nordine**

The application is to develop a trail head for Rice Creek Regional Park. This is part of a Master Plan to connect a regional trail to connect Centerville and Lino Lakes to the Mississippi River in Fridley. Proposed improvements include an off-street parking area to serve a 10-acre off-leash dog recreation area and three miles of bituminous trails. There will be a canoe/kayak landing at this site.

The City Council is required to make a finding that the plan is not in conflict with land uses of adjoining properties. The proposal is consistent with the Comprehensive Plan. The area is zoned Open Space. The area near the creek is in a flood plain. No fill is proposed. A park is a permitted use. There are no storm water management facilities.

The proposal includes a rain garden and an infiltration area, and in the lower parking lot, porous concrete will be used. Two landmark trees will be removed, and 12 replacement trees will be planted. The oak savannah theme is consistent with the other landscaping in the area. The restroom building will be concrete block with a gable roof, hardboard siding and lighted with natural lighting. The plans comply with City requirements. A permit from Rice Creek Watershed District is required. The parking area will have signs, lights and security cameras.

Property owners within 350 feet were notified of the project. No comments were received. The Ramsey County Parks Department will hold a meeting for area residents later this month.

The Planning Commission reviewed the proposal and supports the improvements. Approval is recommended on a 6 to 0 vote. Staff is recommending approval.

Planning Commission Chair Solomonson stated that the Commission is very complimentary of the plan because of it focuses on lighting and safety.

**Mr. Gus Plummer**, Landscape Architect, Ramsey County, was present to answer questions. He stated that the neighborhood to the south was not notified. The plan is to meet directly with the neighborhoods to explain the temporary parking.

Withhart stated that there usually are more than 20 cars in the parking lot and asked if the use of that parking lot is being underestimated. He has observed cars waiting in line for others to leave. This has been a major concern for safety. **Mr. Plummer** responded that additional parking would be added if the need arises. Further, there are two light poles being installed with the possibility of using mobile cameras. The existing temporary lot is not set up for the Sheriff to easily pull in and monitor activity.

Johnson asked if the security cameras can monitor from afar. She suggested organizing a Neighborhood Watch and getting residents involved in being a watch group.

Councilmember Wickstrom asked about signage for temporary parking during construction. **Mr. Plummer** stated that signs will be posted on the site in advance.

Councilmember Withhart asked the project schedule. **Mr. Plummer** answered that construction is planned from June - August. The parking area may be constructed faster and then could be opened for use.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Johnson to recommend that the City Council approve the Site and Building Plan application to redevelop the Rice Creek Trail North, Lexington Avenue Trailhead, 5959 Lexington Ave., subject to the following conditions:

1. This approval permits the redevelopment of the Lexington Avenue Trailhead in accordance with the submitted plans. The City Planner may approve minor changes to the submitted plans.
2. Final grading, drainage, erosion control and utility plans are subject to approval by the Public Works Director.
3. City permits are required for the new water and sewer taps, and associated service lines.
4. A surety for work on City infrastructure (water, sewer, and trail) is required in the amount of \$5,000.00.
5. Lighting on site shall comply with Section 206.030 of the Development Code.
6. City permits shall not be issued prior to Rice Creek Watershed District issuing a permit for the project.
7. All facilities of the park may remain open while the parking area is redeveloped, however in the event parking on City streets creates nuisance conditions, Ramsey County Parks will close the off-leash dog area until parking is again provided for park users at the Lexington Trailhead.
8. The Staff is authorized to issue grading and building permits for this project.

This approval is based on the following findings:

1. The proposed use is a permitted use in the OS, Open Space District and the GF, General Flood Plain District.
2. The use and proposed alterations are consistent with the Planned Land Use, goals and policies of the Comprehensive Plan, Chapter 4, Land Use and Chapter 10, Parks.

3. The storm water management plan is consistent with the City Surface Water Management Plan.
4. The redevelopment is consistent with the Architectural and Site Design criteria and other standards specified in the Municipal Code.

ROLL CALL: Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin  
Nays: None

**VARIANCE APPEAL - MICHAEL MORSE, 1648 LOIS DRIVE**

**Presentation by City Planner Kathleen Nordine**

The applicant has appealed the Planning Commission's denial of his requested variances that are needed to retain and complete a partially built garage on his property. The variances requested are:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area or 750 square feet whichever is more restrictive). The area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined areas of all accessory structures on the property (90% of the dwelling unit foundation area or 1,200 square feet whichever is more restrictive). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To exceed the height of the house (15 feet) - a height of 15'11" feet is proposed.
4. To reduce the required 5-foot setback from a side property line to 2.3 feet.

In July, 2011, the City issued a Stop Work Order for an illegal detached accessory structure that does not comply with City ordinances and for which no permit was issued. A variance application was reviewed by the Planning Commission in July and August, 2011. It was found that practical difficulty is not present, and the variances were denied. In September, 2011, the City Council upheld the Planning Commission's decision. In October, 2011, the applicant was served notice to bring his property into compliance by November 1, 2011. In December, 2011, a public hearing was held on the matter, and abatement ordered. The City filed a complaint with Ramsey County District Court seeking an order to remove the structure. At this time, no decision has been made.

The Development Code permits the same or similar application within six months after denial. Mr. Morse has submitted his variance application a second time. The height exceeds the height of the home. Mr. Morse states that he plans to construct an addition onto his house, but the increased foundation area would not be allowed in calculating the size of a detached garage. There are three criteria to determine practical difficulty: 1) reasonable use of the property as permitted by the Development Code; 2) unique circumstances that would warrant a variance; and 3) allowing the variance would not alter the character of the neighborhood.

The applicant states that the house is small, which limits the size of a garage and that a smaller structure is not adequate for his storage needs. There is an existing drainage easement on the west side of the property that restricts the structure location. Encroachment into the side yard setback is needed. The applicant states that the new garage is located in the same place as the original one, but that cannot be verified. Finally, the applicant states that he was not aware that a building permit would be needed.

Staff concludes that the applicant does have reasonable use of his property. The area of the garage exceeds the area of the home making the garage the principal structure on the property. A garage of 1100 square feet is not reasonable for the size of the property. The impact cannot be mitigated for the property immediately to the west because of the proposed setback. The small size of the home is not a unique circumstance to justify a variance. Neither is the drainage easement unique nor does it create a need to encroach on the side yard. The mass of the structure is a concern. The neighborhood is characterized by smaller homes with detached garages. There is no space to address the visual impact, and drainage becomes an issue.

The comments received are generally in opposition to the variances, and residents are asking why the structure remains. The Planning Commission voted 6 to 0 to deny the variances and does not believe that practical difficulty is present.

**Mr. Frederic Knaak**, Attorney for Applicant, stated that Mr. Morse is a young person who wants to stay in the City. He has four vehicles that have to be parked in the driveway. Before building the garage, Mr. Morse toured the neighborhood to see what others had done. The garage he built is similar to others he saw. He did not know he needed a building permit. The roofing he was required to remove has been done. A complete tear-down would be in excess of \$15,000, and there would be no storage. The new garage would store all of his vehicles. The visual impact from the street looks like a double garage. He recognizes the City's permit process and is prepared to accept fines or fee penalties for violating procedures. He understands that the City does not want to establish a precedent, but being forced to tear it down would be a crushing financial burden. It would make it impossible for him to do any improvement to the property.

City staff recommends denial, and the Planning Commission denied the application after a full hearing stating that sufficient practical difficulty was not established. The location of the garage is in the exact location of the first garage and is an extension of that line. Close proximity to the house makes it impossible to move it over to comply with the side yard setback. The drainage ditch on the west side restricts placement of a garage. In the immediate neighborhood, all houses are small. The lack of storage in the home is the reason for a large garage. Owning a number of vehicles is common. Other types of accessory structures will not accommodate boats. Restrictions of accessory structure size denies storage of normal home items. He respectfully asked the Council to consider the extreme hardship it would be to have to remove the structure and allow the completion of the project.

Planning Commission Chair Solomonson stated that four variances are needed. There are objections from the neighborhood. The Planning Commission felt that the garage is too large for the neighborhood and would far exceed the size of most other garages. The Planning Commission could not accept a reduction to the side yard setback. The vote was 6 to 0 to deny the application.

Councilmember Quigley noted that one sketch on the original garage showed a 5-foot side yard setback as required and asked why it is not accurate if the new garage is built on the old site pad. Ms. Nordine explained that when the old garage was torn down, it was without a demolition permit, and it is not possible to determine the location of the original pad. A rough sketch shows the old garage 6 feet from the lot line, but without the previous site plan, it is difficult to verify.

Mayor Martin opened the discussion to public comment.

**Mr. Gordon Girtz**, 1336 Lois Drive, stated that the applicant is not considering the impact his garage has on adjoining properties. He can see it from his own property two houses down, and it will impact property values. Secondly, enforcement of the Code is inconsistent. He himself was unable to get an occupancy permit without a railing to the basement. Footings for his deck were 36 inches and had to be dug up to be put in at 48 inches deep. The applicant's garage has no footings and will not last. Everyone should be treated fairly. This is a good neighborhood, and this issue has brought a lot of anxiety with people feeling they have to choose sides. It would be helpful to know what is going on with the lawsuit to know something is being done. He commended staff for doing an outstanding job on an untenable position.

**Mr. Knaak** responded that the garage was built to full construction standards. Frost footings are in.

City Attorney Filla stated that there was a pretrial hearing for the lawsuit on Monday, January 28, 2013. The issues are unresolved, and the matter is set for trial on April 1, 2013. Efforts will be made to try to resolve the issue before that date, but he is not sure that can be done.

Mayor Martin stated that while she is very aware of the cost to Mr. Morse, there is also a cost to the City taxpayers with the legal ramifications.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom to deny the following variance requests submitted by Michael Morse, 1648 Lois Drive, to retain and finish the partially-constructed detached accessory structure on his property:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area or 750 square feet whichever is more restrictive). The area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined areas of all accessory structures on the property (90% of the dwelling unit foundation area or 1,200 square feet whichever is more restrictive). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To exceed the height of the house (15 feet) - a height of 15'11" feet is proposed.
4. To reduce the required 5-foot setback from a side property line to 2.3 feet.

Said denial is based on the following findings of fact:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan due to the proposed size of the detached accessory structure. The accessory structure would become a dominant structure and use on the property and not be subordinate to the principal residential dwelling unit. With the proposed 2.3-foot setback from the side property line, open space between properties is not maintained and space is restricted to maintain the structure from the applicant's property.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a two-car, 576 square foot detached accessory structure and a storage shed could be constructed on the property at the required 5-foot setback. The applicant's proposal is not a reasonable use because both the size and height of the structure are too large in proportion to the house and surrounding structures. Also, it is possible for the structure to be placed further away from the lot line.
3. Unique Circumstances. Unique circumstances are not present as there are other similar size homes in the neighborhood and the Development Code does provide the applicant with options to construct a reasonably sized accessory structure(s) on the property. The existing drainage easement on the east side of the property is not a unique circumstance and does not impede on the 5-foot side yard setback required from the west side lot line.
4. Character of the Neighborhood. The proposed size and mass of the structure and setback from the western side lot line does negatively impact the character of the neighborhood and adjoining properties. The residential character of the property is compromised by a structure that exceeds the foundation size of the home. Visual mitigation is not feasible due to the encroachment on the minimum 5-foot side setback required and limited space for landscaping, storm water management and building maintenance. A review of nearby residential properties reveals that the proposed garage is not consistent with the majority of other detached garages in the neighborhood.

#### Discussion:

Councilmember Wickstrom stated that she sympathizes with Mr. Morse, but what he is asking is too much. She also sympathizes with the neighbors. If she lived on the west side of his lot, she would not be happy to see such a large structure built. Some variances may be acceptable, but the structure is too long and too close to the lot line. The Code needs to be enforced, and she will support the motion.

Mayor Martin stated that with a 2.5 foot side yard setback and the length of the building, there is no way to mitigate its impact. She appreciates the applicant's wish to invest in the community, but the Code is not based on individual family needs. What is being requested would gut City ordinances and the Development Code which apply to homes and garages regardless of a small house or number of vehicles owned.

Councilmember Quigley stated that the Planning Commission has to address what is put in front of them. Without a permit, it is not known if there are frost footings. The variance for a side yard

setback makes the length of the garage a bigger issue. The degree of variance requested is beyond what is normally acceptable.

Mayor Martin stated that after the applicant's first request, staff allowed him to reapply without a six-month waiting period if he would make changes. That did not happen.

Councilmember Johnson expressed concern about the documentation for the project and the disparity caused among residents and Mr. Morse. With the letters and documents received, she has a big concern for safety and supports the motion.

ROLL CALL:           Ayes: Quigley, Wickstrom, Withhart, Johnson, Martin  
                      Nays: None

Mayor Martin called a five-minute break at 9:45 p.m. and reconvened the meeting at 9:50 p.m.

**CONDITIONAL USE PERMIT - DENNIS AND MARY LOUISE JARNOT, 1000 OAKRIDGE**

**Presentation by City Planner Kathleen Nordine**

The applicant has applied for a Conditional Use Permit to expand a second detached accessory structure to exceed the maximum area permitted on a parcel that is larger than one acre. The property is 1.56 acres and developed with a two-story home with a foundation area of 1,983 square feet. Detached accessory structures in the rear yard include an attached garage of 753 square feet, a detached garage of 720 square feet and a storage shed of 168 square feet. With expansion of the shed, it would be moved to a 10-foot setback, not the current 5-foot setback. The addition would be 616 square feet, which would result in a structure of 784 square feet. This would total 2,257 square feet of structure to be used for storage of items. City Code allows a Conditional Use Permit for accessory structures to exceed combined permitted square footage up to 2,288 square feet or 90% of the dwelling unit. The exterior design of the addition is compatible with the home.

Staff finds the proposal consistent with the residential use of the property. Visibility of the addition is mitigated with existing vegetation and the distance from adjoining properties. Property owners within 350 feet were notified of the application. Two comments were received in support of the project. The Planning Commission held a public hearing on December 13, 2012, and found that the application is in compliance with Code. The application was approved on a 6 to 0 vote. Staff also recommends approval.

Planning Commission Chair Solomonson stated that the application is for a permitted use. There is existing screening and a 10-foot setback allows additional screening.

Councilmember Wickstrom noted that one document distributed during Citizen Comments specifically states that no further accessory structures are to be built on this property.

Mayor Martin responded that is the reason for the Conditional Use Permit, which overrides that note. Ms. Nordine added that Code standards for accessory structures were different at the time that note

was written. One accessory structure was built without a permit. The applicant was told to apply for a Conditional Use Permit or remove the structure. Mr. Jarnot did apply for a conditional use permit and also requested that he be allowed to construct a larger structure.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom to approve the Conditional Use Permit submitted by Dennis Jarnot, 1000 Oakridge Avenue, for a second detached accessory structure on the property, and adopt Resolution 13-20 subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing vegetation, along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
3. A minimum setback of 10 feet is required from the adjoining side property line.
4. The exterior design and height of the structure shall be residential in scale and be consistent with the existing single family home. The height of the structure as measured from the lowest ground grade to the peak shall not exceed 18'. The exterior sidewalls shall not exceed 10' in height and any interior storage above the main floor shall not exceed 6' in height.
5. The structure shall be used for storage purposes of household and lawn supplies and equipment. The structure cannot be used as a residence.
6. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

**ROLL CALL:** Ayes: Wickstrom, Withhart, Johnson, Quigley, Martin  
Nays: None

**ACCEPT LOW BID, AUTHORIZE PURCHASE OF BOOSTER EQUIPMENT IN CONJUNCTION WITH WATER SYSTEM IMPROVEMENTS, AND AUTHORIZE EXECUTION OF CONSTRUCTION CONTRACT - WESTON WOODS BOOSTER STATION, CP 12-02**

**Presentation by City Engineer Tom Wesolowski**

The purpose for the purchase of the requested equipment is to increase the low water pressure in the Weston Woods townhouse area. Initial bids on the project were received on June 26, 2012, but were 40% higher than the engineer's estimate. All bids were rejected. Plans have been revised and the location of the booster station has been changed to reduce the cost. Revised plans and specifications were approved by the City Council on November 5, 2012. Staff met with the townhome association and the new plan was approved. Four bids were received and opened December 18, 2012. The low bid is from Northdale Construction Company in the amount of \$143,000. With the purchase of equipment quoted at \$60,483, the total project cost would be \$203,483, which is 10% over the engineer's estimate. The cost from the first bid has been reduced by over \$55,000. The bidding process was competitive. Further reductions would not be gained by rebidding again.

Staff recommends acceptance of the low bid from Northdale Construction Company to be financed from the bond issue and Water Fund. This project was scheduled in the City's Capital Improvement Program (CIP) for this year.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Johnson to adopt Resolution No. 13-15 accepting the base bid from Northdale Construction Company, authorizing the Mayor and City Manager to execute a construction contract in the amount of \$143,000, and authorize the purchase of booster station equipment from Goodin Company in the amount of \$60,482.56 for the Water System Improvements - Weston Woods Booster Station, City Project #12-02.

ROLL CALL: Ayes: Withhart, Johnson, Quigley, Wickstrom, Martin  
Nays: None

**APPOINTMENTS TO PLANNING COMMISSION AND PUBLIC SAFETY COMMITTEE**

City Manager Schwerm reported receipt of six applications for the two vacancies on the Planning Commission.

As two new members were appointed to the Planning Commission last year, it was the consensus of the Council to reappoint Steve Solomonson and Pat Schumer. Steve Solomonson is recommended by the Planning Commission to be reappointed as Chair.

MOTION: by Councilmember Quigley, seconded by Councilmember Withhart to reappoint Steve Solomonson and Pat Schumer to the Planning Commission for terms expiring January 31, 2016 and to appoint them as Chair and Vice Chair, respectively.

ROLL CALL:           Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin  
                      Nays: None

There is one vacancy on the Public Safety Committee. Three applications were received and have been reviewed by the Committee. Henry Halverson is recommended for the appointment.

MOTION:     by Councilmember Johnson, seconded by Councilmember Wickstrom to appoint Henry Halverson to the Public Safety Committee for a term expiring January 31, 2014.

ROLL CALL:           Ayes: Quigley, Wickstrom, Withhart, Johnson, Martin  
                      Nays: None

It was noted that all applicants are well qualified, and Councilmembers would like to see them apply for further openings.

Mayor Martin stated that the timing of appointments is awkward with terms ending at the end of January. She requested a review of appointment expiration dates to see if the process can be made smoother.

### **ADJOURNMENT**

MOTION:     by Councilmember Withhart, seconded by Councilmember Quigley, to adjourn the meeting at 10:15 p.m.

VOTE:                Ayes - 5                   Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 19<sup>th</sup> DAY OF FEBRUARY 2013.

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Terry C. Schwerm  
City Manager